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S E C R E T SECTION 01 OF 02 KUALA LUMPUR 000392

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E.O. 12958: DECL: 05/15/2028
TAGS: [PGOV](#) [PREL](#) [PTER](#) [PINR](#) [ECON](#) [ETTC](#) [KJUS](#) [MY](#)
SUBJECT: AMBASSADOR AND ATTORNEY GENERAL DISCUSS ISA,
TERRORISM AND EXPORT CONTROLS

Classified By: Political Section Chief Mark D. Clark for reasons 1.4 (b
and d).

Summary

¶1. (S) The Ambassador called on Malaysia's Attorney General Abdul Gani Patail on May 13 and discussed prospects for prosecuting terrorists, the importance of passing an export control law, and factors affecting progress in the FTA talks. The Ambassador congratulated the AG on drafting of the 2007 anti-trafficking in persons (TIP) law and the recent announcement of the first TIP prosecution. Abdul Gani described the importance of preventative action against terrorists using the Internal Security Act (ISA), noted that information on terrorists was often not available outside the police Special Branch, and said he would discuss the possibility of prosecutions with the Inspector General of Police. Abdul Gani stated that his office recently had completed a new draft of the export control legislation. In the FTA talks, he blamed some GOM agencies for their inability to define Malaysia's interests. The Attorney General said that his office enjoyed good mutually supportive relations with U.S. law enforcement personnel, including the FBI. End Summary.

ISA and Prosecuting Terrorists

¶2. (S) In the course of discussion during the May 13 meeting with Attorney General Abdul Gani, Ambassador Keith, accompanied by polchief and Legatt, urged the Malaysian government to give serious consideration to future prosecution of some terrorists suspects otherwise held for renewable two-year terms of detention under provisions of the Internal Security Act (ISA). While Malaysia's firm preventative actions against terrorists using the ISA had helped Malaysia avoid any attacks, Malaysia's security interests would be served by convicting in a court of law some dangerous terrorists and sentencing them to long jail terms, rather than releasing them after two to six years of ISA detention and uncertain rehabilitation. The Ambassador also noted that the political scene was shifting and there could be more domestic pressure to do away with the ISA in the future. The Ambassador added that the U.S. differentiates between use of ISA against persons who present immediate danger to the public, and application of ISA detention for political reasons.

¶3. (S) Abdul Gani said Malaysia continued to take strict measures and rely on the ISA to detain terrorists, like Jemaah Islamiyah members, before they could act. Laws could not be used effectively to deter suicide bombers. Prosecution was difficult because the information available was often intelligence data, not the result of normal police

investigation. The AGO did not have investigative powers of its own but must rely on the police. In addition, the police Special Branch was "jealous" of its primary counterterrorism role and did not readily share information with the AGO or police investigators; even the Inspector General of Police (IGP) was not kept fully informed. Nevertheless, "if we have a case I don't mind prosecuting," Abdul Gani remarked, noting he would take advantage of a previously scheduled meeting with the IGP later that day to raise this issue.

¶4. (S) Abdul Gani argued that it was unfair to describe jailing under ISA as "detention without trial" because cases came before advisory boards for periodic hearings. Detainees also could apply for writs of habeas corpus for which, however, the role of courts was limited to examining legal procedures rather than the merits of the case, leaving judgments about security to the government. Abdul Gani remarked that he was not fully comfortable with the current ISA system, and, speaking personally and confidentially, said he believed ISA advisory boards should be strengthened and ISA detention periods shortened. He also believed that some persons held under ISA on terrorism grounds were in fact not guilty. On a separate matter, Abdul Gani took exception to the government's overly wide application of the Official Secrets Act.

Export Controls

¶5. (C) The Ambassador highlighted the importance to Malaysia of passing an export control law as a means of attracting

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high technology investment and bolstering its status as an international trading hub. The Ambassador offered further U.S. technical assistance on export control laws, noting with regret that the Foreign Ministry had canceled a legal seminar scheduled for early May. Over time, Malaysia's interest also would be served by supporting international structures, such as the Missile Control Technology Regime, the Ambassador added. Abdul Gani replied that the AGO recently had completed a new draft of the export control legislation, and had just circulated this within the government for comment. The involvement of some 40 government agencies in export controls had complicated drafting tremendously.

FTA

¶6. (C) Abdul Gani commented on Free Trade Agreement (FTA) talks, blaming the Malaysian government's lack of understanding of some issues for slow progress. GOM agencies did not know or could not articulate Malaysia's long-term interests, for example which commodities Malaysia hoped to export to the U.S. in years to come. The GOM at times cannot formulate negotiating positions, because "we don't know what we want." Abdul Gani remarked that proposed Intellectual Property Rights (IPR) courts were "a joke," implying that Malaysia lacked requisite expert knowledge of IPR. (Comment: IPR courts already exist in Malaysia and were established outside the context of the FTA negotiations. Ironically, it is Abdul Gani who has cancelled expanded IPR training by AG officials with U.S. experts. The fact is the GOM does have clear targets of interest, including textiles. The problem is the GOM is unable to reach consensus on what it is willing to give up in return for its desired targeted gains. End Comment.)

MLAT, Trafficking in Persons

¶7. (SBU) The Ambassador thanked the Attorney General for his role in concluding the 2006 U.S.-Malaysia Mutual Legal Assistance Treaty (MLAT), noting this was moving through the U.S. Senate now and stating that we wanted to put the MLAT to practical use. The Ambassador congratulated the Attorney

General for drafting the comprehensive anti-trafficking in persons law in 2007, pushing for the law's full enforcement as of March which allowed for the opening of shelters for victims, and for initiating the first criminal prosecution under the TIP law in early May (septel). Abdul Gani commented on the difficulties in stopping human trafficking absent effective actions in originating countries.

18. (SBU) The Attorney General said that over the past five years his office had enjoyed good mutually supportive relations with U.S. law enforcement personnel, including the FBI. Abdul Gani spoke highly of his interaction with previous U.S. Attorney General Gonzales.

19. (SBU) Abdul Gani requested Embassy support "to open doors" for qualified Malaysian officials to enter top U.S. university graduate programs in areas like international trade and finance law. He also asked for the Embassy to look for ways to attract lecturers from prestigious U.S. universities to teach in Malaysia. The Ambassador noted the Embassy would be willing to assist, but added that Malaysian government requirements for control over curriculum inhibited U.S. universities from operating in Malaysia.

KEITH